

THE HIGH COURT OF UTTARAKHAND AT NAINITAL.

Civil Contempt Petition No. 261 of 2004

Goverdhan Tiwari, S/O Late Rudra Dutt Tiwari, R/O 5/621, Malla
Gorakhpur, Haldwani, Nainital

..... **Applicant.**

Versus

1. S.P.S. Raghav, Chief Managing Director, Uttaranchal Power Corporation, Kawali Road, Dehradun.
2. Pukhraj Kushwaha, General Manager Kumaon Uttaranchal Power Corporation, 132-KV Sub Station, Kathgodam, Nainital.
3. Deputy Chief Accounts Officer, Uttaranchal Power Corporation, 132- KV Sub Station, Kathgodam, Nainital.

.....**Respondents.**

Sri P.S. Rawat, learned counsel for the applicant.

Sri N.S. Negi, learned counsel for the respondents.

Dated: March 20, 2007.

Hon'ble B.S. Verma, J.

Heard learned counsel for both the parties and perused the record.

The present contempt petition has been moved against the respondents to punish them with exemplary punishment for flouting the Court's Order dated 14-1-2004 passed in Writ Petition No. 354 of 2002 (S/S), Goverdhan Tewari Vs. The Chairman, U.P. State Electricity Board and others.

Order dated 14-1-2004 was passed by this Court to the effect that "*the petitioner is entitled for the fixation of the pay scale of Rs. 1650-2690/-. He cannot be deprived from the pensionary benefits after he has reached the age of superannuation on 31st January, 1995. Since, the pensionary benefits in favour of the petitioner has not yet been given to him, the respondents are directed to release the pensionary benefits along with the gratuity*

in favour of the petitioner within a period of one month from the filing of the certified copy of this order.”

Counter Affidavits have been filed by all the three respondents. The respondent no.3, Sri M.Iqbal, Deputy Chief Accounts Officer, Uttaranchal Power Corporation Ltd. Haldwani, in paragraph no. 3 of the counter affidavit stated that the pay-scale of Rs. 1850-2980 was granted to the employee-applicant and the charts showing the pay-scale given to the applicant have been annexed as Annexure C.A.-4 and C.A.-5. It was also stated that the pension has already been revised on the basis of the revised pay-scale and the payment order relating to pension has been annexed as Annexure C.A.-6.

Supplementary Counter Affidavit has also been filed by the respondents and Annexure No. A-1 is the order dated 13-09-2000 whereby the payment of total amount of Rs. 27,158-00 as arrears of pension was made to the applicant Goverdhan Tewari, Senior Noter & Drafter (retired) against P.P.O. No 80.

Learned counsel for the respondent-Corporation has relied upon the judgment and order dated 11-1-2000 passed by the Division Bench in Special Appeal No. 677 of 1999, Chairman, U.P.S.E.B. Vs. Goverdhan Tiwari and submitted that earlier the Corporation had fixed the pay of the applicant provisionally and by error, the pay of the applicant was fixed at Rs. 2690/- provisionally instead of Rs. 2390/- and the Corporation by its order dated 8-7-1997 passed the recovery order against the applicant, which was challenged by the applicant before the Allahabad High Court and the Division Bench by the order 11-1-2000 remanded the matter to the learned Single Judge for decision of the writ petition on merit afresh with a direction to examine whether the fixation of pay of the petitioner at Rs.2390/- is correct or not. The learned counsel for the respondents-Corporation has submitted that neither the applicant challenged the Division Bench judgment before the

Apex Court nor the Division Bench judgment was not taken into consideration by the Court while deciding Writ Petition No. 354 of 2002(S/S). I have gone through the order dated 14-1-2004 passed in the said writ petition and find that the Court has considered the decision of the Division Bench judgment at page 9 of the judgment. Therefore, the contention of the learned counsel for the respondents is misconceived to that extent.

Learned counsel for the respondents has urged that the matter agitated by the applicant before the Court was regarding provisional fixation of pay, which is always subject to final fixation. Indisputably, the matter before the Court was regarding initial fixation regarded as “provisional fixation of pay”, therefore, it was subject to modification and correction. The matter has come to a final end after the Corporation has finally revised the pay-scale of the petitioner Goverdhan Tiwari in accordance with the time-scale admissible to him under the Rules and the arrears of pension have already been received by the applicant-pensioner. This argument of the learned counsel has force. At the foot of Annexure C.A.-5, it has been noted by the respondents that the claims have been finally settled.

From a perusal of the Counter Affidavits and the Supplementary Counter Affidavit coupled with the Annexures filed along with them particularly the Annexure No. C.A.-4 and C.A.- 5 are sufficient to show that the pay scales of the applicant had been finally revised by the Corporation. Moreover, there is evidence to the effect that arrears of pensionary benefits have already been paid to the applicant as is clear from a perusal of letter dated 13-9-2006 (Annexure No.1) filed along with Supplementary Counter Affidavit.

It is pertinent to note that vide order of this Court dated 14-01-2004, the petitioner was entitled to fixation of his pay in the scale of Rs. 1650-2690 and the same had actually been done.

Annexure CA-5 is the chart of scale of pay given to the employee. It is obvious from this document that during the period 1.4.1984 to 31-3-1988, the applicant was entitled to the scale of Rs. 1650-2690 and from 1.4.1988 till the date of his retirement he was granted pay scale of Rs. 1850-2980 and his last basic pay at the time of superannuation in that scale was Rs. 2555.00. The Pension Payment Order No. 80/2000-2001-02 A.O./nil dated 7-11-2000 prepared by the respondent no. 3 (Annexure No. 6) reveals that the pension has been calculated on the basis of last pay drawn @ Rs. 2555.00 per month.

In view of the discussion above vis-à-vis the order dated 14-1-2004 passed by this Court, I find no merit in the contempt petition, which is liable to be dismissed.

The contempt petition is hereby dismissed. Notices issued to the respondents are discharged. However, it is made clear that if there be any calculation mistake in respect of payments made to the applicant or regarding final settlement of claims of the petitioner-applicant, the petitioner shall be at liberty to move representation afresh to the authorities concerned.

(B.S. Verma, J.)

RCP